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TO RUEHC/SECSTATE WASHDC IMMEDIATE 4704
INFO RUEHZO/AFRICAN UNION COLLECTIVE IMMEDIATE
RUEHZL/EUROPEAN POLITICAL COLLECTIVE IMMEDIATE
RUEHGG/UN SECURITY COUNCIL COLLECTIVE IMMEDIATE

C O N F I D E N T I A L USUN NEW YORK 000676

SIPDIS

E.O. 12958: DECL: 07/25/2018
TAGS: [PREL](#) [SU](#)
SUBJECT: SUDAN: AU COMMISSIONER PROPOSES AD HOC LEGAL
PROCESS VICE ICC

Classified By: Ambassador Zalmay Khalilzad for Reasons 1.4 B/D.

11. This is an action request -- sees paragraph 5.

12. (C) SUMMARY. African Union Commissioner Lamamra suggested to Ambassador Khalilzad on July 25 that the Security Council should suspend International Criminal Court (ICC) proceedings against Sudanese President Bashir before the ICC rules on a prosecutor's request for an arrest warrant. In exchange for allowing Bashir that suspension, Lamamra advised, the Council should negotiate a package that would include enhanced cooperation by Khartoum on UNAMID deployment and formation of a Sudanese/International Community mixed judicial chamber to consider war crimes allegations involving Darfur. To Ambassador Khalilzad's questions about the international component of any such ad hoc court, Lamamra replied that the ICC could not be directly involved but suggested that the Security Council could serve as an information conduit between the ICC and the ad hoc court. Lamamri said he planned to raise his suggestion with Special Envoy Williamson in Khartoum. USUN seeks Department's guidance about whether to pursue Lamamra's suggestion and, if so, about the appropriate channel for doing so. END SUMMARY.

13. (C) African Union Peace and Security Commissioner Ramtane Lamamra met with Ambassador Khalilzad on July 25, at the former's request, to suggest that the Security Council should act under Article 16 of the Rome Treaty that created the International Criminal Court (ICC) to suspend proceedings recently brought against Sudanese President Bashir. Lamamra insisted the suspension should not be delayed pending an ICC ruling on Prosecutor Ocampo's request for an arrest warrant against Bashir because "we will lose all Sudanese cooperation in the meantime and up to 30 AU states could withdraw from the ICC as they begin to see the ICC targeting African leaders."

14. (C) Lamamra thought the international community could extract enhanced cooperation from Khartoum in exchange for suspending ICC proceedings against Bashir. He also thought Khartoum could be compelled to agree to creation of a "mixed chamber" to prosecute Darfur-related war crimes allegations. The mixed chamber, as Lamamra described it, would include judges from North Africa along with Arab League and African Union observers. Ambassador Khalilzad asked whether ICC elements would also be included to which Lamamra replied that would be impractical given the pending prosecution but suggested that the Security Council could act as an information conduit between the mixed chamber and the ICC.

15. (C) Without encouraging Lamamra's initiative, Ambassador Khalilzad agreed to consult with the Department about it. USUN requests Department's guidance on whether any such package of Khartoum concessions in exchange for a Security Council suspension of ICC's investigation/prosecution of Bashir would merit further discussion and, if so, on the appropriate substance of any such package and the appropriate

communication channel for exploring it.
Khalilzad